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PRELIMINARY REPORT

FEASIBILITY OF AIR RIGHTS DEVELOPMENT OVER THE INNER BELT/CAMPUS HIGH PROJECT AREA

GENERAL

1. Air Rights Legislation Background

The Housing Act of 1964 authorized the following new activities in connection with air rights development:

(1) the provision of a new type of urban renewal project (known as "air rights project") that consists wholly of

(a) the acquisition of an air rights site in an area which need not qualify as an urban renewal area, and

(b) the construction at project expense of necessary foundations and platforms for development of housing (and related facilities and uses) for families and individuals of low or moderate income; (Section 110(c)(1))

(2) the authorization of construction at project expense of foundations and platforms on an air rights site for the same kind of development in an urban renewal area. (Section 110(c)(7))

A detailed explanation of this legislation was subsequently given in the Local Public Agency Letter No. 304, dated February 15, 1965. In summary, the new act makes possible the construction of foundations and platforms on which may be erected low and moderate rental housing plus necessary related services. The costs of air rights acquisition, supplementary land acquisition or easements, and the construction of the

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foundations and platforms may be included in calculating gross project costs. This kind of air rights renewal action may be within urban renewal areas or may stand by itself as an air rights project.

2. Purpose and Eligibility

The Letter points out that the purpose of this legislation is to facilitate the removal of the blighting influences sometimes caused by highways, railways, subway tracks, bridges and tunnel entrances, and similar facilities. The basic "ground rules" in effect for urban renewal projects under Title I still hold. But there are some special aspects of the rules which are specifically pertinent to air rights renewal.

To be eligible the air rights area must consist principally of land in highways, railway or subway tracks, bridge or tunnel entrances, etc. The area must have a blighting influence on its surroundings which can be terminated by the air rights improvements. The reuse of the air space must be for low and/or moderate income housing (including related facilities). The design of the project must protect the air rights portion from the blighting influence of the remaining surface area. The reused air space must be compatible with its surroundings and in conformance with the locality's general plan. The whole project must be economically justifiable and it must be authorized by local and state laws.

3. Specific Features of the Legislation

Certain specific features of the existing legislation warrent further consideration, particularly in relation to the Campus High area.

(a) Removal of blighting influences

The LPA Letter requires a demonstration that the existing use of the land proposed for air rights development has a blighting influence which shall be removed sufficiently by the proposed air rights treatment. Such detrimental conditions as adverse influence from noise, smoke, fumes, dirt, glare, vibration, or hazards to persons may be considered in determining the nature and degree of the blighting influence. Besides these obvious blighting factors, such highways, railways, etc. often form unsightly barriers between areas by their indiscriminate cutting through the city. It can reasonably be demonstrated that the Inner Belt will cut through the middle of the Lower Roxbury community, dividing it into two segments with such results as separating part of the residential community (the South End portion) from its community center (Cooper). The depressed portion of the Inner Belt in this area does offer opportunities for air rights development that can both eliminate the resulting blighting influences and at the same time tie together a separated community.

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(b) Reuse limited to housing and related facilities

Under the present law, reuse of an air rights site is restricted to the provision of housing (and related facilities and uses) designed specifically for, and limited to, families of low or moderate income. Such housing would include both public housing and 221(d)(3) developments. Related facilities and uses would be regarded as appropriate only if provided as part of a public or 221(d)(3) project, and can be shown to be reasonably related to, and necessary for, the housing use of the site.

(c) Compatibility with surrounding land uses and conformance with the General Plan

In addition to the use restruction, air rights development must also be compatible with the surface and air space uses of the land surrounding the site and must conform to the General Plan of the locality as a whole and be consistant with definite local objectives respecting appropriate land use, density of development improved traffic, etc.

The use of air rights over the Inner Belt between the Madison Park and South End areas for low and moderate income housing and related facilities would be completely compatible with the land use objective for these two

areas and would further fulfill the important objective of linking together, both physically and socially, two communities where the renewal plans call for the rehabilitation of existing housing and the construction of new low and moderate income housing. Air rights development in this area also would conform to the General Plan, although the Plan calls for commercial rather than residential use.

(d) Authorization by law

The development of air rights over state highways, (including the Inner Belt) was authorized by the Massachusetts legislature in 1966 (Chapter 677, Acts of 1966). This law authorized the Department of Public Works to lease air rights, for a period not exceeding 99 years, over state highways for any use which would not impair the construction, use, safety, maintenance, or repair of the highway.

(e) Economic feasibility

A major provision of the air rights legislation is the economic feasibility of providing an air rights site. According to the LPA Letter, an air rights proposal will be considered eligible if the costs of acquiring the air rights plus the cost of constructing foundations, platforms, access, and related project improvements, less

the reuse value of the air rights site, is not relatively more expensive than the cost of acquiring a slum, blighted, deteriorated, or deteriorating area and preparing the area for redevelopment, less the reuse value of the cleared land. However, provision of an air rights site at a higher cost may be approved if justified by the achievement of important community objectives in addition to providing a suitable site for housing.

Because of the newness of this type of development precise figures concerning construction costs are not readily obtainable. However, it is estimated that costs for the construction of foundations and platforms would be, at a very minimum, $15 per square foot. (Construction costs for a relatively simple foundation and platform of a proposed parking garage over the Massachusetts Turnpike at Kenmore Square are estimated at $17 per square foot.) To the construction cost must be added the acquisition cost of an air rights property less the reuse value. Acquisition in the Madison Park area can be estimated at $1-$2 per square foot and resale (for low or moderate income housing) would be very minimum - approximately $.15 per square foot. Subsoil conditions (peat deposits overlaid by natural and artificial deposits) would tend, however, to increase the foundation costs for air rights development.

A brief survey of total costs of preparing a site in a slum or blighted area under the normal operation of urban renewal indicates that for built-up urban areas with high land values these costs are relatively the same as providing an air rights site, although generally they are slightly less. In the Fenway Project Area of Boston, for example, net costs of site preparation for built-up blocks range from $10 to $20 per square foot. However, it may be pointed out that the construction costs of an air rights development do include part of the building costs (foundations) which are not included in the costs of a normal renewal project; and thus there is a certain inequality in comparing the costs of the two types of projects.

In the Madison Park area, however, land values are far less than in a built-up intown location. At the same time, much of the land is already vacant, thus reducing the net costs of site preparation. Therefore, it is highly likely that air rights development in this area would not be economically favorable to the development of air adjacent cleared land site. Nevertheless, the federal legislation does allow a higher cost site where justified by community objectives, which can be argued in the Madison Park area.

AIR RIGHTS IN THE MADISON PARK AREA

The possibility of developing air rights over the Inner Belt in the Madison Park area, under the provisions of the recent federal legislation, is dependent primarily on two factors - its economic feasibility and the physical limitations.

1. Economic Feasibility

The previous section has discussed briefly the economics of air rights development in this area. In summary, the costs of acquiring the air rights and constructing the supporting foundations and platforms would far exceed the costs of acquiring and preparing an adjacent site on renewal land. Preliminary studies indicate that the costs of a renewal site in the Madison Park area vary between less than $1.00 to less than $3.00 per square foot (see appendix I).

2. Physical Limitation

Preliminary studies indicate that the presently proposed ramp system of the Inner Belt would tend to severly limit the development of an air rights parcel west of Shawmut Avenue. It is estimated that the maximum extent of any platform would be approximately 100 feet beyond Shawmut Avenue. Beyond this point, the ramp to the Southwest Expressway would prevent any on-level expanding. However, consideration could be given to the possibility of spliting the platform at this point to extend on either side of the ramp, with possibly an elevated connection; in this

case, the length of the platform would be limited only by the ramps to and from the adjacent frontage roads. Were this not possible, the best solution would appear to be a widened deck at Shawmut Avenue, providing an attractive pedestrian link between the Madison Park area and the South End. The construction of some activity generators on this platform could provide an active tie between these two communities.

The greatest potential for air rights development, however, is in the area between Shawmut Avenue and Washington Street (where, in fact, the General Plan does propose such development). Some discussions of the possibilities have already been held with the engineers for this section of the Belt (Fay, Spofford & Thorndike). Alternative uses discussed were residential, commercial, park/open space, and public parking facility.

It should be pointed out that any development, including the construction of the platform and superstructure, would have to be undertaken at the same time as the construction of the highway itself. This would be necessary because the sub-soil conditions in the area necessitate a "floating bridge" structure for the depressed Inner Belt, whose weight would depend on whether or not there were to be an air rights development (a heavier structure would be needed if there were no development).

A further study will be made to determine the extent of air rights possibilities west of Shawmut Avenue.

APPENDIX I

COST OF RENEWAL SITES - MADISON PARK AREA

Block Number	69A	69B	77
Area (square feet)	58,633	62,612	55,078
Estimated Acquisition Cost (1.25 x assessment)	$117,000	$154,875	$ 48,875
Demolition and Site Preparation ($0.045/cubic feet)	29,340	35,280	4,800
Gross Project Cost	146,340	190,155	53,675
Less Resale ($0.15/square feet)	8,790	9,390	8,260
Net Project Cost	$137,550	$180,765	$ 45,415
Net Cost/square feet	$ 2.35	$ 2.89	$ 0.82

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Feasibility of Air Rights Development over the Inner Belt.

Campus High Project Area

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